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No. 946

PROVIDING FOR THE ENLISTMENT OF ALIENS IN THE REGULAR ARMY

AUGUST 22 (legislative day, JUNE 2), 1949.—Ordered to be printed

Mr. TYDINGS, from the Committee on Armed Services, submitted the
following

REPORT

[To accompany S. 2269]

The Committee on Armed Services, to whom was referred the bill (S. 2269) to provide for the enlistment of aliens in the Regular Army, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

This bill is similar to S. 2016 which was introduced in the Eightieth Congress but which was not acted upon in committee. The provisions of S. 2016, Eightieth Congress, were included in the Senate version of the Selective Service Act of 1948 by an amendment which was adopted on the floor of the Senate. The amendment, however, was removed from the Selective Service Act of 1948 in conference.

The purpose of the bill is to permit the Secretary of the Army, with the approval of the Secretary of State, to accept enlistments and reenlistments in the Regular Army from among qualified aliens between the ages of 18 and 35. The enlistment period is restricted to not exceed 5 years and the number to not exceed 10,000. The program terminates on June 30, 1951.

EXPLANATION OF THE BILL

Section 1 of the bill authorizes the Secretary of the Army to undertake the program referred to above. In several respects the provisions of this section are more restrictive than those which were adopted by the Senate as an amendment to the Selective Service Act of 1948. The previous action would have permitted 25,000 individuals to be enlisted; S. 2269 restricts the number to 10,000. Further, the present version of the bill requires that the individual shall be unmarried and

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without dependents; it also permits the acceptance of reenlistments, and requires that the program shall require the approval of the Secretary of State.

Section 2 specifies that any provisions of existing law which prohibit payment to any person not a citizen of the United States shall not apply to aliens who enlist under this authority, nor to their dependents and beneficiaries. This is the same as the provisions previously adopted by the Senate, but removed during the conference on the Selective Service Act.

Section 3 suspends until June 30, 1951, the portion of the act of August 1, 1894, which provides that in time of peace no person, not a citizen of the United States, shall be accepted for first enlistment in the Army. This is the same as the provisions previously adopted by the Senate, but removed during the above-mentioned conference.

Section 4 is a new section and is intended to clarify the status of the enlistees secured under this program insofar as their right to apply for citizenship is concerned. Under section 324A of the Nationality Act of 1940, amended by the act of June 1, 1948, any person not a citizen who has served honorably in an active-duty status during World War I or World War II, is permitted certain advantages in the matter of seeking his naturalization. Section 4 of S. 2269 would enable persons enlisted under the program contemplated in this proposed legislation to obtain the benefits of section 324A, notwithstanding the fact that their service was not performed during World War I or World War II. The section also makes it clear that a person who is in the military service as a result of this program and who enters the United States or an outlying possession pursuant to military orders, shall be deemed to have been lawfully admitted to the United States for "permanent residence," insofar as section 324A is concerned.

If this provision were not included, it would have been necessary for the individual to have been in the United States at the time of his enlistment, or to have been admitted for "permanent residence" as a quota immigrant.

The Vice Chief of Staff of the Army appeared before the Committee in support of this proposal. The views of the Department of State, the Justice Department, and Treasury Department are expressed in the following letters which are made a part of this report. These letters make reference to the bill, S. 273, which was replaced at the request of the committee by S. 2269 and are applicable to the new bill.

DEPARTMENT OF STATE,
July 11, 1949.

Hon. MILLARD E. TYDINGS,
Chairman, Committee on Armed Services,
United States Senate.

MY DEAR SENATOR TYDINGS: Further reference is made to your letter of January 6, 1949, in which you request the views of the Department concerning S. 273, a bill to provide for the enlistment of aliens in the Regular Army.

The proposed measure is somewhat similar to S. 2016 which was introduced in the Eightieth Congress, second session. However, unlike that measure, the present bill makes the acceptance by the Army of the enlistment of aliens contingent upon the approval of the Secretary of State and does not limit such enlistments to service "outside the continental United States, its Territories, and possessions."

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In view of these differences, the first of which is considered particularly important, between S. 2016 and S. 273, the Department considers that the latter bill is not open to the objections which were raised against the former by the Department in its letter of February 3, 1948, to Senator Gurney. Accordingly, from the standpoint of the foreign relations of the United States, the Department would not object to the enactment of S. 273 in its present form, provided it is understood at the outset that from the standpoint of foreign policy, the Department would consider highly undesirable and would, in fact, not approve, should the bill be enacted, the enlistment of aliens for use as occupation forces in areas under allied military occupation, of aliens who are nationals of countries with which the United States was at war and has not concluded a peace treaty for use anywhere, or of other categories of aliens whose enlistment might from time to time appear undesirable from the standpoint of American foreign policy.

If it is intended that the authority contained in this bill would be employed to enlist aliens coming within the scope of the Displaced Persons Act of 1948 (Public Law 774, 80th Cong.), the Department is of the opinion that some provision should be included therein for the immigration to the United States of their dependents, who might otherwise be required to spend their time in displaced persons' camps while the head of the family was serving in the United States Army.

Since the receipt of your request, the Department has received from the Bureau of the Budget for comment a copy of a proposed report prepared by the Secretary of the Army. It appears from this report that the Department of the Army favors the enactment of S. 273 subject to its being amended to authorize the reenlistment of the aliens and to permit them to qualify for United States citizenship under the same conditions as aliens who are lawfully admitted to the United States for permanent residence.

With the question of reenlistment the Department has no particular concern. However, on the question of citizenship, it is deemed desirable to call attention to the provisions of section 324 (a) of the Nationality Act of 1940, as amended (8 U. S. C. 724 (a); 54 Stat. 1149; 60 Stat. 417), which permits the naturalization, without prior residence in the United States, of aliens who have served in the armed forces for a period or periods aggregating 3 years, provided that the petition is filed while the petitioner is still in the service or 6 months after the termination of such service. While it is realized that such naturalization could not, under existing law, take place abroad, but only before a naturalization court in the United States, it would seem to the Department that the regulations prescribed by the Secretary of the Army pursuant to the act might provide for the return to the United States at specified periods for naturalization purposes of aliens enlisted thereunder who are serving outside the continental limits of the United States.

Because your committee already has the matter under consideration, the Department has not cleared this report with the Bureau of the Budget, to which copies are being sent.

Sincerely yours,

ERNEST A. GROSS,
Assistant Secretary.

DEPARTMENT OF JUSTICE,
OFFICE OF ASSISTANT ATTORNEY GENERAL,
Washington, April 29, 1949.

Hon. MILLARD E. TYDINGS,
Chairman, Committee on Armed Services,
United States Senate, Washington, D. C.

MY DEAR SENATOR: This is in response to your request for the views of the Department of Justice relative to the bill (S. 273) to provide for the enlistment of aliens in the Regular Army.

Section 1 of this bill would authorize the Secretary of the Army, with the approval of the Secretary of State, and under regulations to be prescribed by the former, to accept until June 30, 1951, original enlistments in the Regular Army, not exceeding 25,000 in number, from among qualified aliens between 18 and 35 years of age, for an enlistment period of not less than 5 years. Section 2 would constitute a waiver of provisions of law prohibiting the payment of persons not citizens of the United States, in favor of aliens enlisting in the Regular Army pursuant to section 1 and their dependents and beneficiaries. Section 3 would sus-

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pend until June 30, 1951, a provision of law prohibiting the peacetime first enlistment in the Army of any alien who has not made legal declaration of his intention to become a citizen.

This bill appears to be similar in purpose to S. 2016, Eightieth Congress. It differs, however, in that the earlier bill provided that the aliens enlisted pursuant thereto would be enlisted for service "outside of the continental United States, its Territories, and possessions." Further, the earlier bill did not provide that enlistments thereunder required the approval of the Secretary of State. The reasons for these two changes are not readily apparent. If it is contemplated that these aliens may be enlisted abroad, this measure will provide for such persons' eligibility to obtain the special naturalization privileges established by section 324 of the Nationality Act of 1940. Section 324 of the Nationality Act of 1940 provides that a person who has served honorably in the United States Army, Navy, Marine Corps, or Coast Guard for a period of 3 years, may be naturalized without having resided in the United States for at least 5 years, if a petition for naturalization is filed while the petitioner is still in the service, or within 6 months after honorable separation from such service. The section provides further, that such a person shall comply with all the requirements of the naturalization laws, except that he shall not be required to file a declaration of intention or certificate of arrival, or to have resided within the jurisdiction of the naturalization court.

Aliens brought into this country as members of the armed forces are not within the jurisdiction of the immigration laws. As a general rule, when such persons are discharged from military service in the United States they are not entitled under the immigration laws to remain here permanently and are technically subject to deportation. Pursuant to this measure it would be possible to enlist abroad 25,000 aliens, to bring them to the United States without in any way complying with the immigration laws, and to provide for their naturalization pursuant to section 324 of the Nationality Act upon the completion of 3 years of honorable service. This Department has no information concerning the restrictions which might be imposed against the entry of undesirable aliens entering the United States and becoming eligible for naturalization by reason of the combined effect of this measure and of the above-mentioned section of the Nationality Act of 1940.

Whether or not this bill should be enacted presents a question of legislative policy concerning which this Department prefers to make no comment other than to direct the attention of the committee to the possibilities hereinabove outlined.

The Director of the Bureau of the Budget has advised that there is no objection to the submission of this report.

Yours sincerely,

PETER CAMPBELL BROWN,
Acting the Assistant to the Attorney General.

TREASURY DEPARTMENT,
Washington, March 9, 1949.

HON. MILLARD E. TYDINGS,
*Chairman, Committee on Armed Services,
United States Senate, Washington, D. C.*

MY DEAR MR. CHAIRMAN: Further reference is made to your letter of January 6, 1949, requesting the views of the Treasury Department on S. 273, a bill to provide for the enlistment of aliens in the Regular Army.

The purpose of S. 273 is to permit the Army to accept original enlistments in the Regular Army from among qualified aliens not less than 18 years of age nor more than 35 years of age for an enlistment period of not less than 5 years.

The Treasury Department has no objection to the enactment of this proposed legislation. Insofar as enlistments in the Coast Guard are concerned, a sufficient number of United States citizens possessing good qualifications are being obtained for enlistment in accordance with existing laws and regulations. For this reason, the inclusion of the Coast Guard within the provisions of S. 273 apparently would not benefit the Government.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

E. H. FOLEY, JR.,
Acting Secretary of the Treasury.